

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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JOHN KOGUT,

Plaintiff,

-against-

MEMORANDUM AND ORDER  
06-CV-6695 (JS)(WDW)

THE COUNTY OF NASSAU, POLICE  
COMMISSIONER DONALD KANE, POLICE  
COMMISSIONER WILLIAM J. WILLETT (2005),  
POLICE COMMISSIONER JAMES LAWRENCE,  
DETECTIVE SEAN SPILLANE (HEAD OF HOMICIDE  
1985), DETECTIVE DENNIS FARRELL (HEAD OF  
HOMICIDE 2005), DETECTIVE JOSEPH VOLPE,  
DETECTIVE ROBERT DEMPSEY, DETECTIVE ALBERT  
MARTINO, DETECTIVE WAYNE BIRDSALL,  
DETECTIVE MILTON G. GRUBER, DETECTIVE  
CHARLES FRAAS, DETECTIVE FRANK SIRIANNI,  
DETECTIVE HARRY WALTMAN, P.O. MICHAEL  
CONNAUGHTON, P.O. WILLIAM DIEHL, and  
JOHN DOES 1-5,

Defendants.

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JOHN RESTIVO, DENNIS HALSTEAD,  
MELISSA LULLO, JASON HALSTEAD,  
HEATHER HALSTEAD and TAYLOR  
HALSTEAD,

MEMORANDUM & ORDER  
06-CV-6720(JS)(WDW)

Plaintiffs,

- against -

NASSAU COUNTY, JOSEPH VOLPE, in his  
individual capacity, ROBERT DEMPSEY,  
in his individual capacity, FRANK SIRIANNI,  
in his individual capacity, MILTON GRUBER,  
in his individual capacity, HARRY WALTMAN  
in his individual capacity ALBERT MARTINO,  
in his individual capacity, CHARLIE FRAAS,  
in his individual capacity, THOMAS ALLAN  
in his individual capacity, RICHARD BRUSA,  
in his individual capacity, VINCENT DONNELLY,  
in his individual capacity, MICHAEL  
CONNAUGHTON, in his individual capacity,  
WAYNE BIRDSALL, in his individual capacity,  
WILLIAM DIEHL, in his individual capacity,  
JACK SHARKEY, in his individual capacity,

DANIEL PERRINO, in his individual capacity,  
ANTHONY KOZIER, in his individual capacity,  
Detective Sergeant CAMPBELL, (Shield #48),  
in his individual capacity, SEAN SPILLANE,  
in his individual capacity, RICHARD ROE  
SUPERVISORS #1-10, in their individual  
capacities,

Defendants.

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APPEARANCES:

For Plaintiffs:

John Kogut

Anthony M. Grandinette, Esq.  
Grandinette & Serio, LLP  
114 Old Country Road, Suite 420  
Mineola, NY 11501

Paul Casteleiro, Esq.  
200 Washington Street, Suite 500  
Hoboken, NJ 07030

John Restivo,  
Dennis Halstead,  
Melissa Lullo,  
Jason Halstead,  
Heather Halstead,  
and Taylor  
Halstead

Barry C. Scheck, Esq.  
Deborah L. Cornwall, Esq.  
Monica R. Shah, Esq.  
Nick Joel Brustin, Esq.  
Anna Benvenutti Hoffman, Esq.  
Cochran, Neufeld & Scheck, Llp  
99 Hudson Street, 8th Floor  
New York, New York 10013

For Defendants:

Liora M. Ben-Sorek, Esq.  
Sondra Meryl Toscano, Esq.  
Office of the Nassau County Attorney  
One West Street  
Mineola, NY 11501

SEYBERT, District Judge:

Upon reviewing the circumstances of both of the above-captioned cases, the Court finds that consolidation of the cases is appropriate pursuant to Rule 42(a) of the Federal Rules of Civil Procedure. Both cases involve common questions of law and fact.

Plaintiffs John Kogut ("Kogut"), John Restivo

("Restivo"), and Dennis Halstead ("D. Halstead") allege inter alia, malicious prosecution, false arrest and imprisonment, and 14th Amendment due process violations by Defendants. All of these claims, along with those asserted by Melissa Lullo, Jason Halstead, Heather Halstead, and Taylor Halstead stem from Kogut's, Restivo's, and D. Halstead's wrongful convictions for the rape and murder of Theresa Fusco ("Fusco") in November 1984. Defendants are, inter alia, members of the investigative team who had primary responsibility for arresting, interrogating, and prosecuting Kogut, Restivo, and D. Halstead. All three were later exonerated by DNA evidence.

Pursuant to the Local Rules of this District, the cases shall be consolidated under the earliest filed case, Kogut v. County of Nassau, 06-CV-6695. The Clerk of the Court is directed to close the 06-CV-6720 action, and all papers are to be filed under the Kogut action, 06-CV-6695.

SO ORDERED.

/s/ JOANNA SEYBERT  
Joanna Seybert, U.S.D.J.

Dated: Central Islip, New York  
March 31, 2009